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10/707,388	12/10/2003	Ramachandra Divakaruni	FIS920030274US1	1387

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HOFFMAN WARNICK LLC  
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ALBANY, NY 12207

EXAMINER
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FULK, STEVEN J

ART UNIT	PAPER NUMBER
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2891

NOTIFICATION DATE	DELIVERY MODE
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06/24/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOCommunications@hwdpatents.com

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed After Final on June 10, 2008 have been fully considered but they are not persuasive.

Applicant argues that the Examiner introduced a new ground of rejection that was neither necessitated by applicant's amendment of the claims, nor based on an IDS. This argument is not persuasive because Applicant amended claims 12 and 20 to require the polysilicon base to be located in the trough with the silicide section. The previous limitations of claims 12 and 20 required only the silicide section to be positioned in the trough and the polysilicon section to be below the silicide section, but not necessarily in the trough. Thus, a new ground of rejection was required for the newly added limitation, and making the Office Action final was proper. Applicant is invited to review MPEP 706.07(a) for further explanation of proper Final Rejection practice.

Applicant also argues the claim language of "wherein the silicide section has a silicidation temperature less than a damaging temperature of the plurality of BEOL layers" is not indefinite because the language "silicidation temperature", "damaging temperature" and "BEOL layers" are all clear to a person of ordinary skill in the art. However, Applicant specifically defines "damaging temperature" to be "a temperature at which damage is probable to occur to a structure in any of the plurality of BEOL layers" (Specification, ¶19). In light of this definition of "damaging temperature", the claims are indefinite because one of ordinary skill in art would not be reasonably apprised of

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whether or not damage occurs to the BEOL layers. The term "probable" has not been specifically defined by specification, therefore the ordinary definition of "establishing a probability" has been applied (Webster's Dictionary, previously presented). Because the specification does not establish a probability of damage at the silicidation temperature, it is not sufficiently clear whether or not damage occurs to the BEOL layers. Thus one of ordinary skill in the art would not be reasonably apprised of the scope of the invention

Applicant also argues that Yoo teaches a silicide bitline structure, and not a silicide resistor. This argument is not persuasive because the structure of Yoo and Yoo in view of Wolf is identical to the claimed device, including the claimed resistivities of the structure. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use of a resistor for a semiconductor device, then it meets the claim.

### ***Conclusion***

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN J. FULK whose telephone number is (571)272-8323. The examiner can normally be reached on Monday through Friday, 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Baumeister can be reached on (571) 272-1722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

3. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Steven J. Fulk  
Patent Examiner  
Art Unit 2891

June 17, 2008

/Douglas M Menz/  
Primary Examiner, Art Unit 2891  
6/17/08